



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

MAR 2 1999

400 Seventh Street, S.W.
Washington, D.C. 20590

173.56

Ben Barrett, P.E.
Production and Regulatory Administrator
Hodgdon Powder Co., Inc.
6231 Robinson
Shawnee Mission, KS 66202

Reference No. 88-0127

Dear Mr. Barrett:

This is in response to your letters and telephone conversations with several staff members within the Office of Hazardous Materials Safety (OHMS) concerning "Powder, smokeless, 1.3C, UN 0161, PG II" approved in accordance with 49 CFR 173.56 for the product manufacturer, Australian Defense Industries, Ltd. (ADI). I am sorry for the delay and hope this has not caused you any inconvenience.

Your questions are paraphrased and answered as follows:

Q1. Can the approved smokeless powder be placed in any packaging authorized in § 173.62 without further testing provided the written approval does not specify a particular packaging?

A1. The answer is yes.

Q2. Can my company repackage smokeless powder and offer it for transportation based on the Division 1.3C approval issued to ADI or must my company obtain its own approval for the same material? My company has an approval for this material to be transported domestically as a Division 4.1 smokeless powder, but is concerned the approval issued to ADI may be authorized for ADI's use only.

A2. Because the explosives have been tested, classed and approved in accordance with § 173.56, and provided no alterations have been made to the explosives and the material is identified as the ADI material, your company may repackage the smokeless powder in conformance with § 173.62 and transport it in accordance with the Division 1.3C approval issued to ADI. However, we recommend that you obtain permission from ADI to use its approval. Your company may obtain its own approval for this material by submitting its own test results for the smokeless powder and an application for approval to RSPA in accordance with 49 CFR Part 107, Subpart H.

- Q3. If a material has an "EX" number assigned to it, does it mean the product is an explosive or is the number used as a tracking system for anything that has been tested as an explosive, even if it is found to not be an explosive?
- A3. An "EX" number is assigned to all approval requests submitted to the Associate Administrator under § 173.56(b)(1). Not all requests fulfill the prescribed criteria and are granted.
- Q4. If "Smokeless powder for small arms, NA 3178" is reclassified from Division 1.3 (explosive) to Division 4.1 (flammable solid), does it have to meet the package marking requirements for explosive materials in § 172.320, such as marking the "EX" number on the outside of the package?
- A4. The answer is no. The requirement in § 172.320 to mark the outside of the package with the EX-number of each Class 1 material contained within the package applies only to materials or devices that are classified as Class 1.

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script, reading "Hattie L. Mitchell".

Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards

HODGDON POWDER CO., INC.

FACSIMILE TRANSMISSION

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DATE: October 6, 1998 TIME: # OF PAGES: 13

Dear Eileen:

Thanks for your kind help on this project. Here are further comments and back-up documents to answer your questions about my interpretation request dated 10/15/97. I have enclosed information about 2 chemical families of smokeless powders (UN0161/NA3178), both made by our Australian supplier, ADI.

First Question

The first question asks whether UN0161 materials can be packaged in a manner different than their configuration during burn testing, but still within the packing method, without further burn testing. FYI, I think smokeless powder defaults to a 1.1 material, but can be reclassified to 1.3C and then further to 4.1 by burn testing, subject to criteria set forth in the RSPA regulations.

I have been verbally told by Ms. Carol Monroe and Dr. Spencer Watson that I can use other packaging within the Packing Method without further burn testing as long as a packaging restriction is not printed on the approval. I have attached approvals with the restriction (e.g. Exhibit A) and without the restriction (e.g. Exhibit B), the unrestricted powders being the more hazardous. I have a request pending with Ms. Monroe to remove the restriction from the approval which has it. Mr. Jim Jones has indicated to Ms. Christine Whitney and myself that this will be done.

Second Question

The attached approvals were granted to our Australian supplier, ADI. Can we use these approvals, or should we get our own? Mr. Jones has indicated that all I need is a letter from ADI giving me permission to use the approvals. I am to write Mr. Jones a letter explaining the situation in similar detail to what I am writing here.

I am also aware that RSPA is now faced with a question of whether approvals are intellectual property or in the public domain (spurred by air bag module reclamation). I think the resolution of this question affects the answer to my question.

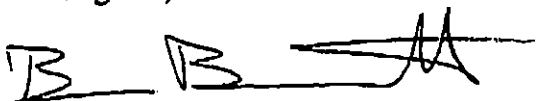
I think I should get my own approval because:

- I am generally uncomfortable using someone else's approval when I change the packaging, and also when the approval holder is not based in the U.S. An interpretation letter would solve this problem.
- My company prefers to use product names instead of EX#'s. ADI sent a letter to RSPA for this purpose in 1993, but Hodgdon is at risk if it is not on file at RSPA.

EXHIBITS

- A. ADI approval, AR family of powders (single base)
 - I have requested that the packaging restriction be removed
 - I have requested that this approval be updated to the UN system
- B. ADI approval, Clays family of powders (double base)
 - More hazardous of the 2 powder families, contains nitroglycerin
 - No packaging restriction, even for the 4.1 approvals
- C. ADI approval, AS-30 1.3C, backup to Exhibit B
 - No packaging restriction
- D. ADI approval, AS-50N & AP-50N 1.3C, backup to Exhibit B
 - No packaging restriction
- E. Chemical specifications, backup for Exhibits B - D
- F. Chemical specifications, backup for Exhibit A
- G. ADI letter to RSPA giving Hodgdon product codes
 - Need some type of acknowledgement, or my own approval
- H. ADI approval, AR2208, AR2216, AR2217
 - More AR powders, but this time without any packaging restriction
- I. ADI approval, AR2215
 - Ditto Exhibit H

Best Regards,



Ben Barrett

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THE BRAND THAT'S TRUE